

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

LAMONT WELLS, #490390,

Petitioner,

v.
CASE NO. 2:10-CV-12714
HONORABLE VICTORIA A. ROBERTS

THOMAS BIRKETT,

Respondent.

ORDER DENYING PETITIONER'S MOTION FOR RECONSIDERATION

This matter is before the Court on Petitioner's motion for reconsideration concerning the Court's dismissal of his petition for a writ of habeas corpus for failure to comply with the one-year statute of limitations application to federal habeas actions. The Court also denied a certificate of appealability and denied leave to proceed *in forma pauperis* on appeal.

Petitioner seeks reconsideration because he believes that the Court failed to consider his response to Respondent's summary judgment motion.

The Court reviewed all of Petitioner's responsive pleadings and finds that he has not set forth sufficient circumstances to warrant statutory or equitable tolling of the one-year period. The state's imposition of a page limitation on motions for relief from judgment simply did not preclude Petitioner from timely seeking collateral review in the state courts or habeas relief in federal court. So, there is no reason for the Court to reconsider its prior decision.

Moreover, the Court concluded in its earlier opinion that Petitioner was still untimely even if the Court equitably tolled the time in which his rejected pleadings were pending in state

court. A motion for reconsideration which presents issues already ruled upon by the court, either expressly or by reasonable implication, will not be granted. *See Hence v. Smith*, 49 F. Supp. 2d 547, 550 (E.D. Mich. 1999); *Czajkowski v. Tindall & Assoc., P.C.*, 967 F. Supp. 951, 952 (E.D. Mich. 1997). Petitioner has not met his burden to show a palpable defect by which the Court has been misled or his burden to show that a different disposition must result from a correction thereof, as required by Local Rule 7.1(h)(3).

The Court properly denied the petition, and properly denied a certificate of appealability and leave to proceed *in forma pauperis* on appeal. The Court now **DENIES** this motion.

IT IS ORDERED.

s/Victoria A. Roberts

Victoria A. Roberts
United States District Judge

Dated: April 4, 2011

The undersigned certifies that a copy of this document was served on the attorneys of record and Lamont Wells by electronic means or U.S. Mail on April 4, 2011.

s/Linda Vertriest
Deputy Clerk